



TOGETHER WITH TOSHA

TENNESSEE DEPARTMENT OF LABOR & WORKFORCE DEVELOPMENT

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH

FALL 2002

OSHA ISSUES NEW RULES FOR RECORDING HEARING LOSS AND ERGONOMIC INJURIES AND ILLNESSES

The July 1, 2002, Federal Register notice revises 29 CFR 1904.10 to establish new criteria for the recording of hearing loss. It requires the recording of standard threshold shifts (defined as 10 decibel [dB] shifts in hearing acuity) that have resulted in a total 25 dB level of hearing above audiometric zero, averaged over the frequencies at 2000, 3000, and 4000 Hz. These requirements will take effect in calendar year 2003. Because these provisions affect the criteria for recording injuries and differ from previous Federal and State requirements, all states are required to adopt identical criteria for recording hearing loss, with an effective date of January 1, 2003.

The second notice, published on July 1, proposes to again delay the effective dates of three subsections of Part 1904 until January 1, 2004. These provisions would otherwise have gone into effect on January 1, 2003. The agency expects to publish a final rule on these effective dates later this year after review of public comments. Two of these subsections contain requirements related to musculoskeletal disorders (MSDs). They are 29 CFR 1904.12, which (1) defines "musculoskeletal disorder (MSD)" and (2) requires employers to check the MSD column on the OSHA Log if an employee experiences a recordable musculoskeletal disorder. Also delayed is the second sentence of 29 CFR 1904.29(b)(7)(vi), which (3) states that MSDs are not considered "privacy concern cases."

In addition to the proposed delay in the requirement to check the MSD column on the OSHA Log, OSHA is proposing to delay the effective date of 29 CFR 1904.10(b)(7), which requires employers to enter a check mark in the hearing loss column on the 300 Log for cases involving occupational hearing loss, until January 1, 2004.

TOSHA STAFF UPDATE

Ron Rich has been promoted to TOSHA's Manager of Public Sector. Ron takes over for Windell Little who ran the public sector office for eight years before retiring in May of this year. Ron has been with TOSHA since 1992 and has served as an industrial hygiene compliance officer and industrial hygiene supervisor before becoming public sector manager. A staff of seven industrial hygienists, occupational safety specialists, and support staff stationed across the state will assist Ron in working with state and local governments to ensure the safety and health of their

employees while at work. In Tennessee all TOSHA laws and regulations extend to the public sector. In other words, all public sector employers and employees must comply with all TOSHA occupational safety and health standards and regulations. TOSHA's public sector staff conducts periodic inspections to ensure compliance, responds to employee complaints, and provides consultative services and training to assist with compliance. For more information about the public sector, call Ron Rich at 615-741-2793.

HEARING CONSERVATION IN CONSTRUCTION

Should OSHA add a requirement for hearing conservation to its construction noise standard? That's what the agency will determine by responses received to its Advanced Notice of Proposed Rulemaking published August 2, 2002. Hearing conservation requirements such as hearing protection, hearing tests, and periodic noise exposure monitoring already exist for general industry workers. OSHA is requesting comment by November 4, 2002, on whether those requirements should be applied to the construction industry and, if so, how they should be adapted.

Every year as many as 750,000 U.S. construction workers are exposed to hazardous noise levels. Among these workers, regular hearing protection is only worn about 15-33% of the time. TOSHA's current construction noise standards require employers to protect workers from hazardous noise and provide hearing protection devices to workers engaged in construction and renovation work when high noise levels are present.

Written comments on OSHA's consideration of a hearing conservation program for the construction industry must be submitted by November 4, 2002, in triplicate, to the Docket Office, Docket No. H-011G, Room N-2625, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Ave. NW, Washington, DC, 20210, (202) 693-2350. Electronic comments may be submitted to: <http://ecomments.osha.gov/>.

Because of security-related problems in receiving regular mail service in a timely manner, OSHA is requesting that comments be hand-delivered to the Docket Office, or sent by Express Mail or other overnight delivery service, electronic mail, or facsimile.

DID YOU KNOW THAT . . . ?

- Back injuries are the nation's #1 workplace safety problem
- Over 1,000,000 workers suffer back injuries yearly.
- Three out of four (75%) back injuries affect the lower back and occur while employees are lifting.

Together With TOSHA

Mark Reineke
Commissioner

John Winkler
TOSHA Administrator

Andrew Johnson Tower, 3rd Floor
710 James Robertson Parkway
Nashville, TN 37243-0659

615/741-2793 FAX 615/741-3325
Accident Reporting 1/800-249-8510
TDD 1/800-475-1351

www.state.tn.us/labor-wfd

Editor Sandra Bennett
Layout & Design Janis Harkins

Comments and suggestions are welcome. Inquiries regarding *Together With TOSHA* should be directed to the TOSHA Division Training Section: 615/741-5726



Together With TOSHA is a quarterly publication of the Tennessee Department of Labor and Workforce Development, Authorization No. 337227; 72,000 copies; \$0.09 per copy. The Tennessee Department of Labor and Workforce Development is committed to principles of equal opportunity, equal access, and affirmative action. Auxiliary aids and services are available upon request to individuals with disabilities.

Ask TOSHA

What protection does TOSHA's discrimination, or whistleblower, laws provide?

Tennessee workers have the right to complain to TOSHA and seek an inspection when they believe unsafe and/or unhealthy working conditions exist. Employers cannot discriminate against employees for exercising this right. The Tennessee Occupational Safety and Health Act authorizes TOSHA to investigate employee complaints of employer discrimination against employees who are involved in safety and health activities protected under the Act. State and local government workers in Tennessee may also file complaints of employer discrimination with TOSHA. In addition, Federal OSHA is responsible for enforcing discrimination, or whistleblower, protection under ten other federal acts.

Some examples of discrimination are firing, demotion, transfer, layoff, losing opportunity for overtime or promotion, exclusion from normal overtime work, assignment to an undesirable shift, denial of benefits such as sick leave or vacation time, blacklisting with other employers, taking away company housing, damaging credit at banks or credit unions, and reducing pay or hours.

Tennessee workers or their authorized representatives must file discrimination complaints within 30 days of learning of adverse action being taken by the employer.

Other laws with whistleblower protection administered by Federal OSHA and *not* TOSHA are:

The Surface Transportation Assistance Act
The Asbestos Hazard Emergency Response Act
The International Safety Container Act
The Energy Reorganization Act
The Clean Air Act
The Safe Drinking Water Act
The Federal Water Pollution Control Act
The Toxic Substances Control Act
The Solid Waste Disposal Act
The Comprehensive Environmental Response, Compensation and Liability Act
The Wendell H. Ford Aviation Investment and Reform Act for the 21st Century

DISCARD BLOOD TUBE HOLDERS AND CONTAMINATED NEEDLES TOGETHER

Removing contaminated needles from blood tube holders exposes workers to potentially lethal hazards and is a practice prohibited by TOSHA's bloodborne pathogens standard. The agency clarified that policy June 12, 2002, in a letter of interpretation, stating "the increased manipulation required to remove a contaminated needle from a blood tube holder is unnecessary and may result in a needlestick from either the front or back end of the needle." TOSHA requires that employees discard blood tube holders with attached needles immediately into a sharps container after activation of the device's safety feature. Adhering to the policy will reduce the dangers of needlesticks for healthcare workers and others who handle medical sharps.

WE'RE FROM THE GOVERNMENT

& WE'RE HERE TO HELP

One of the purposes of the Hazard Communication Standard and the Tennessee Right-to-Know Law is to ensure that the information about the hazards of chemicals are transmitted to employers and employees so that all chemicals can be used safely. Along with container labeling and providing employee training, employers must have a material safety data sheet on each hazardous chemical used in their workplace. Everybody knows this is a big job. There are many free databases of material safety data sheets on the Internet. On <http://www.ilpi.com/msds/index.html> you can find free databases of material safety data sheets. There are also sites listed where you can find easy to read information on toxicology, chemical fact sheets written for non-chemists, chemical information translated into Spanish, and lots of other information on chemicals.

Did you know that one out of five workplace fatalities is a construction worker? Despite its high fatality rate, construction can be a safe occupation when workers are aware of the hazards, and use an effective Safety and Health Program. OSHA has published a new "Construction eTool" to help employers identify and control the hazards that commonly cause the most serious

construction injuries. They are grouped under four headings: Electrical Incidents, Falls, Struck-by, and Trenching and Excavation. Go to www.osha.gov, left click on “E” on the index at the top of the page, click on “etools” in the index, then click on “etools” on the next page when it comes up. This will bring up all of the etools, then select “Construction.”

AMPUTATIONS AND METHYLENE CHLORIDE ADDED TO TARGETING INITIATIVES

Beginning October 1, 2002, TOSHA will have a special emphasis program designed to identify and reduce the workplace hazards which are causing or are likely to cause amputations. This will be in addition to the special emphasis programs on excavation and trenching, falls, occupational noise, and carbon monoxide, which have been in place for several years. Also, TOSHA will begin planning a targeting initiative to focus resources on industries that use methylene chloride, a highly hazardous chemical used in paint stripping, pharmaceutical manufacturing, metal cleaning and degreasing, and other operations. This initiative will be in addition to our present targeting initiatives on construction work, nursing homes, and metal-working industries.

These programs are designed to focus considerable TOSHA resources on areas where attention to matters of safety and health are most needed. TOSHA believes that failure to guard machinery is a primary cause of amputation. Injuries involving the operation of saws, shears, slicers, and power presses often result in death or permanent disability. Inspection history indicates that employee exposures to these unguarded or inadequately guarded machines occur in many workplaces. These machines are covered by 29 CFR 1910.212, .213, and .217 and compliance with these standards needs to be improved.

The emphasis program on amputations will follow closely Federal OSHA's National Emphasis Program. You may find a copy of the National Emphasis Program at www.osha.gov by clicking on the links Laws and Regulations and then Compliance Directives. The directive can be found in the Table of Contents for Compliance Directives, at CPL 2-1.35.

Methylene chloride inhalation and skin exposures are the predominant means of exposure to the chemical. Inhaling the vapors causes mental confusion, light-headedness, nausea, vomiting, and headache. With acute exposures methylene chloride acts as an anesthetic, while continued exposures may cause staggering, unconsciousness, and even death. Studies on laboratory animals indicate that chronic exposure causes cancer. The chemical has an expanded TOSHA standard at 29 CFR 1910.1052. The permissible exposure limit (PEL) has been set at 25 ppm (parts per million part of air) as an eight-hour time weighted average and the short-term exposure limit (STEL) is 125 ppm as determined over a sampling period of fifteen minutes.

The emphasis program on methylene chloride is under development and additional information will be available later.

ALL ABOUT TOSHA, PART 2

TOSHA standards and regulations apply to all places of employment where employees are exposed to a hazard. Unsafe conditions affecting only clients, patients, residents, students, etc., do not fall under TOSHA's jurisdiction.

The TOSHA Act specifies certain rights and responsibilities of both employers and employees. Those of the *employer* include: the **responsibility** to provide a workplace free from recognized hazards; the **responsibility** to comply with TOSHA regulations; the **responsibility** to not restrict a TOSHA inspection; the **right** to participate in development of standards; the **right** to a review of citations issued; the **right** to seek a variance to a standard; the **right** to have trade secrets protected. The *employee* rights and responsibilities include: the **responsibility** to comply with TOSHA regulations; the **right** to file a complaint and request an inspection; the **right** to be afforded appropriate protective measures (labels, control techniques, ppe, monitoring) to control exposures to biological or physical agents; the **right** to file complaints with TOSHA without being discharged or discriminated against; the **right** to object to a citation or to the result of a TOSHA inspection or investigation; the **right** to refuse medical treatment on religious grounds.

TOSHA enforces the following standards from the Code of Federal Regulations:

| | | |
|--------|-----------|------------------|
| 29 CFR | Part 1910 | General Industry |
| 29 CFR | Part 1926 | Construction |
| 29 CFR | Part 1928 | Agriculture |

TOSHA also enforces Tennessee Department of Labor & Workforce Development Rules 0800-1-1 through 0800-1-11.

In Tennessee, Federal OSHA enforces the following regulations:

| | | |
|--------|-----------|----------------------------------|
| 29 CFR | Part 1915 | Shipyards Employment |
| 29 CFR | Part 1916 | Longshoring and Marine Terminals |

TOSHA TIPS

Condition: Live parts of electrical equipment operating at 50 volts or more were not adequately guarded against accidental contact by an approved enclosure or by another suitable method.

Potential Effects: Electric shock, burns, and electrocution, from contact with live parts.

Citation: 29 CFR 1910.303(g)(2)(i) Inadequate Physical Guard for Electrical Equipment

Recommended Action: Guard the exposed electrical parts by using barriers, enclosures, or elevation above 8 feet to eliminate the possibility of accidental contact by persons or objects. Where feasible, use locks to limit access to qualified persons.

Learn and Live

ON-SITE CONSULTATIVE SERVICES PROBLEM SOLVER

Three employees working at a manufacturing plant were wiping down parts of the company's product with rags soaked in a solvent-based liquid that contained 2-butoxyethanol. The employees were exposed to airborne levels below the permissible exposure limit (PEL) of 25 parts 2-butoxyethanol per million parts (ppm) of air based on an 8-hour time-weighted average exposure. They were working without wearing gloves.

2-butoxyethanol causes red blood cells to break down, resulting in a decreased oxygen carrying capacity of the blood and possible anemia. It also causes a mild irritation of the eyes, nose and throat. Repeated exposure causes pulmonary hemorrhage and liver damage. Exposure may cause reproductive damage. Routes of entry into the body include absorption through the skin, and inhalation. 2-butoxyethanol has a "Skin Designation" in Table Z-1-A and employers are required to prevent or reduce skin exposure to employees when they are using materials with these designations.

The employer was advised to:

- 1) Substitute a material that cannot be absorbed through the skin.
- 2) Consult the MSDS for the replacement chemical to ensure it is not a more toxic material.
- 3) Provide the appropriate personal protective equipment that will prevent contact with the employees' skin. The information on the MSDS stated that rubber or neoprene gloves were effective in protecting against skin exposure to 2-butoxyethanol.
- 4) Review all MSDSs and identify all chemicals that have a "Skin Designation" and provide the appropriate personal protective equipment.
- 5) Train their employees, safety committee members, and supervisors on this hazard.